
OLR Bill Analysis

sSB 979 (File 249, as amended by Senate "A")*

AN ACT CONCERNING PROTECTION OF EXEMPT FUNDS IN BANK ACCOUNTS.

SUMMARY:

This bill modifies the process by which a debtor's funds held by a financial institution (hereafter "bank") can be obtained to satisfy a judgment. Specifically, the bill:

1. expands the circumstances when a bank must leave the lesser of \$1,000 or the balance in a person's account when paying funds under an execution,
2. limits when a serving officer (such as a state marshal) may serve the same execution on the same bank, and
3. makes other minor changes to the execution laws.

*Senate Amendment "A" designates as the "look-back period" the period of time in which a bank must look for a debtor's readily identifiable deposits.

EFFECTIVE DATE: October 1, 2013, except a conforming change is effective July 1, 2015.

AMOUNT LEFT IN ACCOUNT AND READILY IDENTIFIABLE DEPOSITS

By law, a creditor may obtain a court-ordered judgment against someone who owes the creditor money (debtor). The creditor may have an execution issued by the court served on any bank where the debtor has an account. Certain funds are exempt from execution if the debtor claims the exemption.

Current law requires the bank to leave in the account the lesser of

\$1,000 or the account balance if in the 30 days before the execution was served on the bank, an electronic direct deposit was made to the account that is readily identifiable as one of the following: (1) federal veterans' benefits, (2) Social Security benefits, or (3) child support payments the state collects and electronically deposits into a parent's bank account. The bill expands application of this rule in two ways:

1. it applies this rule when an account receives electronic direct deposits that are readily identifiable as (a) exempt benefits paid by the federal Railroad Retirement Board or Office of Personnel Management (which includes federal civil service retirement benefits) or (b) unemployment benefits and
2. it lengthens the look-back period for all of these readily identifiable deposits from 30 to 60 days or a longer period if required by federal law for a federal benefit.

The law requires the debtor to have access to funds left in the account. The bill specifies that this must be full and customary access to the funds.

REPEAT SERVICE OF EXECUTIONS ON BANKS

The bill prohibits a serving officer from subsequently serving the same execution (or a copy of it) on the same bank when an electronic direct deposit from one of the readily identifiable sources described above was made to the debtor's account during the look-back period described above (presumably the period before subsequent service). Otherwise, the bill allows subsequent service of the execution as long as the execution has not expired or become unenforceable.

NOTICE

When funds are removed from an account, the law requires the bank to mail a copy of the execution and exemption claim form to the debtor. The bill additionally requires mailing notice to the debtor as required by federal regulation for certain federal benefits. Federal regulations require a bank to send a readily understandable notice with certain information when a benefit agency deposits a benefit

payment into the account. The notice must, among other things, identify the federal benefits involved and explain garnishment, the bank's obligations under federal law, and the state law's requirements to freeze funds (31 CFR 212.7).

COMMITTEE ACTION

Banks Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/14/2013)